

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

TIMOTHY C. HARRY and
KAREN C. HARRY

Plaintiffs,

v.

APEX MORTGAGE SERVICES, LLC; et al.

Defendants.

Case No. 16-cv-10895-FDS

MOTION FOR ENTRY OF DEFAULT JUDGMENT

NOW COMES Plaintiffs Timothy C. Harry and Karen C. Harry by and through their undersigned counsel respectfully requesting for an Entry of Default Judgment against Defendant APEX Mortgage Services, LLC; the complaint in this matter was filed in Barnstable County Superior Court on March 18, 2016 and removed to the United States District Court on May 17, 2016 by Deutsche Bank National Trust Company as Trustee for American Home Mortgage Asset Trust 2007-2 Mortgage-Backed Pass-Through Certificates, Series 2007-2, Homeward Residential, Inc, Mortgage Electronic Registration Systems, Inc. and Ocwen Loan Servicing, LLC; defendant APEX Mortgage Services, LLC was served with the Complaint on April 27, 2016 with the Massachusetts Secretary of State's Process Servicing Section at 1 Ashburton Place, Boston, MA; Patricia Harney of the Secretary of the Commonwealth Corporations Division accepted service of process and forwarded the complaint and summons to APEX Mortgage Services, LLC at its last known address the Secretary of the Commonwealth Corporations Division had on file on April 28, 2016; Service of Process was Returned on July 5, 2016; Defendant APEX Mortgage Services, LLC, pursuant to Civil Rule 12 (a) (1)(A)(i) which states a defendant must serve an answer within

21 days after being served with the summons and complaint, did not enter any pleadings or an appearance as required by May 25, 2016; Defendant has not retained counsel nor issued pleadings; Plaintiffs moved for a Default Judgment against the Defendant on June 13, 2016; Notice of Default Judgment was issued by this Honorable Court on June 28, 2016; no proceedings have been taken by the Defendant since the default was entered; Defendant was not in military service and is not an infant or incompetent as appears in the declaration of Tina L. Sherwood submitted herewith.

Wherefore, Plaintiffs move that this Honorable Court make and enter a judgment of having the alleged mortgage issued by the Defendant APEX Mortgage Services, LLC be removed from the Barnstable Land Records and enter a judgment for \$11,906,459.

Dated this 17th day of August, 2018.

By Plaintiffs' Attorney

/s/ Tina L. Sherwood

Tina L. Sherwood BBO# 662047

17 Main ST

Hopkinton, MA 01748

(617) 930-3533

COMMONWEALTH OF MASSACHUSETTS

County of Middlesex

On this 17th day of August, 2018, before me, the undersigned notary public, personally appeared TINA L. SHERWOOD, proved to me through satisfactory evidence of identification, which was her driver's license to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

/s/ Jacquelyn M. Brogan

Notary Public: Jacquelyn M. Brogan

My Commission Expires: 1/6/2023

Dated:

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

TIMOTHY C. HARRY and
KAREN C. HARRY

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AFFIDAVIT IN SUPPORT OF MOTION FOR DEFAULT JUDGMENT

1. I am duly licensed to practice law in Massachusetts.
2. I am the Attorney for the Plaintiffs in the above entitled action and I am familiar with the file, records and pleadings in this matter.
3. The Verified Complaint was filed on March 18, 2016 with the Barnstable County Superior Court.
4. Plaintiffs served the Verified Complaint and Summons on the Defendant APEX Mortgage Services, LLC on April 27, 2016 with the Massachusetts Secretary of State's office Process Servicing, Patricia Harney at 1 Ashburton Place, Boston, MA.
5. Patricia Harney forwarded the Verified Complaint and Summons to Defendant at Defendant's last known address of record on April 28, 2016.
6. Plaintiffs complied with Rule 4(c) of the Massachusetts Rules of Civil Procedure.
7. This matter was removed to United States District Court on April 21, 2016 by Deutsche Bank National Trust Company as Trustee for American Home Mortgage Asset Trust 2007-2 Mortgage-Backed Pass-Through Certificates, Series 2007-2,

Homeward Residential, Inc, Mortgage Electronic Registration Systems, Inc. and
Ocwen Loan Servicing, LLC;

8. An answer to the Verified Complaint was due on May 18, 2016.
9. Defendant APEX Mortgage Services, LLC has failed to appear, plead or otherwise defend within the time allowed and, therefore, is now in default.
10. Plaintiffs, filed a Motion for Default Judgment against Defendants APEX Mortgage Services, LLC on June 13, 2016
11. The Clerk of Court entered a default against the Defendant APEX Mortgage Services, LLC on June 28, 2016.
12. Plaintiffs and the Massachusetts District Court, after attempting service of process on the Defendants to the last known address of the Defendants received notice of returned pleadings.
13. As established in the Complaint, Plaintiff is entitled to damages in the amount of \$11,898,126 plus interest as well as to have the mortgage written by APEX Mortgage Services, LLC removed from the Barnstable Land Records.
14. As more fully set forth in the Amended Complaint, the damages being sought breaks down as follows: RICO violations of \$1,500,000, M.G.L. c. 266 Section 35A violation of \$500,000, 18 U.S.C. Section 1014 violations \$1,000,000 for fraudulently writing a mortgage and \$8,898,126 for every number that was fraudulently stated on the false loan application, TIL, GFE and HUD statements.
15. Plaintiff is entitled to recover statutory attorney fees in the amount of \$20,000 from Defendant.
16. The Defendant is not in the military, is not an infant and is not incompetent.

Dated this 17th day of August, 2018

Timothy C. Harry and Gretchen C. Harry
By Their Attorney

/s/ Tina L. Sherwood

Tina L. Sherwood

BBO # 662047

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/s/ Jacquelyn M. Brogan

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